

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: TESTOSTERONE REPLACEMENT THERAPY PRODUCTS LIABILITY LITIGATION	MDL No. 2545
This Document Relates to All Cases	Master Docket Case No. 1:14-cv-01748 Hon. Judge Matthew F. Kennelly

ABBVIE'S AND ABBOTT'S REQUEST FOR INCLUSION OF TOPIC ON JULY 10 AGENDA

MDL Case Management Order No. 1 directs any party that wishes to add a topic to the Court's July 10 conference agenda to file a request for inclusion. AbbVie Inc. and Abbott Laboratories (together, "AbbVie") hereby request that the Court add the following topic: preliminary steps to lay the groundwork for coordinating this MDL with parallel state court litigation against AbbVie.

As the Manual for Complex Litigation (§ 20) explains, the "[m]ultiplication of cases ... across the federal and state systems is a common characteristic of complex litigation ... and coordination of multiple claims is crucial to effective management of complex litigation." Coordinating federal and state cases was recently the subject of a joint effort of experienced state and federal jurists, who published the "Multijurisdictional Litigation Guide."¹ The Guide includes recommended best practices for coordinating federal and state cases.

There are a number of cases against AbbVie pending in different state courts that, like the cases in this MDL, allege personal injuries from using AndroGel. And, like the cases in this MDL, the state court cases against AbbVie are in the early stages of litigation. Now is therefore the right time to begin laying the groundwork to coordinate these parallel sets of cases.

¹ Available at <http://multijurisdictional litigation.wordpress.com> or from a link on the JPML website at <http://www.jpml.uscourts.gov/legal-resources>.

Coordinating this MDL with the state court cases against AbbVie will be more convenient and efficient for the parties and witnesses. *Id.* §20.31 (“coordinate parallel or related litigation so as to reduce costs, delays, and duplication of effort”); *In re Lipitor*, 2014 WL 661589, at *3, (J.P.M.L.) (“Creation of an MDL likely will make it easier to coordinate, as needed, pretrial proceedings in both state and federal cases, because there will now be just one judge handling the latter.”); *In re Plavix*, 923 F. Supp. 2d 1376, 1378-79 (J.P.M.L. 2013) (same). The same discovery will be sought from AbbVie, including production of the same documents and the same deposition testimony from the same witnesses. Coordinating all of the cases, including the discovery schedule and plan, will eliminate unnecessary duplication of efforts and save the parties and their counsel unnecessary expense.

Plaintiffs in this MDL have recognized the need for federal-state coordination. The joint application for appointment to the Plaintiffs’ Steering Committee states “it is vital to the success of an MDL to coordinate and cooperate with counsel representing clients in parallel state court actions in order to efficiently move the litigation as a whole.” (ECF No. 150 at 10.) The joint application identified attorneys as proposed state court liaisons, and various individual applications submit that their authors will be helpful as federal-state coordinators. (*See, e.g.*, ECF No. 122 at 1; ECF No. 138 at 2; ECF No. 148 at 3.)

As preliminary steps to lay the groundwork for coordinating the federal and state cases against AbbVie, AbbVie proposes: (1) Plaintiffs’ counsel and AbbVie work together to identify a comprehensive list of all state court cases that have been filed or will in the near term be filed against AbbVie, and (2) this Court should request the consent of the appropriate Plaintiffs’ counsel in this MDL to agree to allow Your Honor to contact and communicate directly with the judges handling the AbbVie state court proceedings identified in step (1).

Dated: July 8, 2014

Respectfully submitted,
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CERTIFICATE OF SERVICE

I, Scott P. Glauberman, hereby certify that on July 8, 2014, the foregoing document was filed via the Court's CM/ECF system, which will automatically serve and send email notification of such filing to all registered attorneys of record.

/s/ Scott P. Glauberman
Scott P. Glauberman